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Written statement* submitted by the European Centre for Law and Justice / Centre Européen pour le Droit et la Justice, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Considerations on the national report submitted by France as part of the Universal Periodic Review

The *European Centre for Law and Justice* takes note of the report submitted by France to the Working Group on the Universal Periodic Review (document A/HRC/WG.6/29/FRA/1) and wishes to make the following comments.

By ratifying the International Covenant on Civil and Political Rights, France has committed itself to protecting the family as a *"natural and fundamental group unit of society"* and to guaranteeing *"the right to life"* and *"the right to marry and to found a family"* (Article 6 (1) and Article 23 (1) and (2)).
However, every year in France, nearly 215,000 women terminate their pregnancies. More than 8 million abortions have been performed since 1975, which represents a quarter of all births. The abortion rate in France remains one of the highest in Europe and increases especially among young women: nearly 10% of high school girls in the Paris region have aborted and 31% have already taken the abortion pill (also known as the "morning after pill") at least once.

Abortion has undeniable, cultural, demographic, economic and social consequences. Forty-two percent of women who had an abortion before the age of 25 have experienced depression. Half of the women who have had an abortion suffer from suicidal thoughts. Women who have an abortion are three times more likely to experience physical, mental or sexual violence than women who complete their pregnancy. According to a 2016 IFOP survey, 89 % of French women recognize that "abortion leaves psychological marks that are difficult for women to live with" and 72 % of women believe that "society should help women to avoid abortion."

France, with regards to its international commitments, should prevent abortion in order to support and protect life and family. France has made a commitment to support the family, motherhood and children *"before as well as after birth"* (Convention on the Rights of the Child), to *"reduce the recourse to abortion"* and to *"take appropriate measures to help women avoid abortion"* (Cairo Conference, 1994). The Council of Europe also called on European states to *"promote a more pro-family attitude in public information campaigns and provide counselling and practical support to help women where the reason for wanting an abortion is family or financial pressure."* (Parliamentary Assembly of the Council of Europe, Resolution 1607, 2008).
Abortion is not inevitable; many countries have managed to reduce its use through prevention policies.

In Italy, for example, the number of abortions fell by 56% between 1982 and 2013, reaching 102,000, half as many as occur in France. Italy's abortion and contraception rates are among the lowest in Europe.
In Germany, the number of abortions decreased from 135,000 to 99,000 between 2001 and 2015, and from 13,000 to less than 5,300 in Latvia between 2004 and 2013.
In the United States, the teen pregnancy rate was cut in half between 1990 and 2010 through a campaign to empower and value sexuality and life. The number of senior year students claiming abstinence has doubled from 33% to 66%, resulting in a two-thirds reduction in abortions among young people, a decline in sexually transmitted diseases, and an improvement in their emotional and psychological balance.

Many concrete preventive measures deserve to be implemented, in particular to better educate young people, help women and empower fathers.
While many women, who would otherwise prefer not to have an abortion, resort to abortion for economic or circumstantial reasons, the new French legislation encourages abortion.
France has embarked on a policy of abortion prevention solely focused on the promotion of different methods of contraception, based on the idea that increased availability of contraception will reduce the number of unwanted pregnancies and, as a result, abortions.
However, this idea is based on a false premise because countries such as France that have a high rate of contraception also have a very high rate of abortion. This is because the generalization of contraception also has the effect of promoting risky sexual behavior. In France, where only 3% of women of childbearing age do not use contraception, the abortion rate was of 15.6 per 1,000 in 2013, significantly exceeding the European average of 12 per 1,000, which on average has an inferior contraceptive use rate.

Misuse of contraceptives only partially explains the maintenance of a high number of abortions. The WHO has estimated that even if all women were to use a method of contraception, there would still be 6 million abortions worldwide each year, contraceptive methods, of course, not being 100% reliable.

Greatly increased education on sexuality and contraception should also lead to a decrease of abortions. The article L. 121-1 (modified by the law n° 2013-595 of July 8th, 2013 - article 10) of the Code of education provides *in fine*: *"The schools, the* colleges *and the* Lycées *provide for a mission of information on violence and for an education to sexuality"*. As confirmed by Chantal Picod, Project Manager at the Ministry of National Education: *"In total, 25 % of schools and 94 % of* colleges *have set up at least one sex education sequence per year"*.
It can be observed that as gender diversity has been introduced in schools and sex education courses have been set up, the age of first sexual intercourse has steadily declined, increasing the risk of unwanted pregnancies among the youngest. According to the INED, the average age of first sexual intercourse for a woman in France in 1958 was 20.5 years, whereas today it is 17.6 years old.

Not only has the French government failed to reduce abortions, but **it promotes it by criminalizing private initiatives to dissuade women from having an abortion.**
The law of March 20, 2017 (No. 2017-347) expanded the *"offense of obstruction to abortion"* in order to intimidate any association or person to convince women or couples to keep the baby they are carrying.

> This law punishes with *"two years' imprisonment and a 30,000 euros fine preventing or attempting to prevent the practice or information about an interruption of pregnancy or the prior acts provided for in articles L. 2212-3 through L. 2212-8 by any means, including electronically or online, including the dissemination or transmission of claims or indications that may intentionally mislead for the purpose of deterrence, on the medical characteristics or consequences of an abortion"* (Article L. 2223-2 of the Public Health Code, *unofficial translation*).

The *European Centre for Law and Justice* invites the Human Rights Council to ask France to repeal this provision for the following reasons.

- This law undermines the legal security of the French because its drafting is imprecise and its application is unpredictable. The principle *nullum crimen, nulla poena sine lege* guaranteed in Article 7 of the European Convention on Human Rights requires that an offense must be clearly defined by law and prohibits the interpretation of the law extensively or by analogy. The vagueness of the definition, together with the explanatory statement and the statements of the rapporteurs of the text show that the intention is an extensive interpretation, contrary to the principle of strict interpretation of the criminal law and opens the door to arbitrariness.

- This law is contrary to Article 19, paragraph 2 of the Covenant, which states that *"Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."* However, with this law, a person expressing his point of view and giving advice to a pregnant woman could be prosecuted for trying to convince a woman to keep her baby or dissuade a woman from resorting to abortion.

- Finally, this law is contrary to the right to found a family (Article 23 of the Covenant) because the government is trying to prohibit dissuading a woman from abortion when it should guarantee the right to found a family and support the people in difficult situation and considering the use of abortion.